

(3) The agency must ensure that the reports contain no identification of individual patients, individual health care practitioners or other individuals.

[43 FR 45188, Sept. 29, 1978, as amended at 44 FR 41644, July 17, 1979; 59 FR 56232, Nov. 10, 1994]

§ 431.120 State requirements with respect to nursing facilities.

(a) *State plan requirements.* A State plan must—

(1) Provide that the requirements of subpart D of part 483 of this chapter are met; and

(2) Specify the procedures and rules that the State follows in carrying out the specified requirements, including review and approval of State-operated programs.

(3) To an NF or ICF/IID that is dissatisfied with a determination as to the effective date of its provider agreement.

(b) *Basis and scope of requirements.* The requirements set forth in part 483 of this chapter pertain to the following aspects of nursing facility services and are required by the indicated sections of the Act.

(1) Nurse aide training and competency programs, and evaluation of nurse aide competency (1919(e)(1) of the Act).

(2) Nurse aide registry (1919(e)(2) of the Act).

[56 FR 48918, Sept. 26, 1991, as amended at 62 FR 43935, Aug. 18, 1997]

Subpart D—Appeals Process for NFs and ICFs/IID

SOURCE: 44 FR 9753, Feb. 15, 1979, unless otherwise noted.

§ 431.151 Scope and applicability.

(a) *General rules.* This subpart sets forth the appeals procedures that a State must make available as follows:

(1) To a nursing facility (NF) that is dissatisfied with a State's finding of noncompliance that has resulted in one of the following adverse actions:

(i) Denial or termination of its provider agreement.

(ii) Imposition of a civil money penalty or other alternative remedy.

(2) To an intermediate care facility for Individuals with Intellectual Disabilities (ICF/IID) that is dissatisfied with a State's finding of noncompliance that has resulted in the denial, termination, or nonrenewal of its provider agreement.

(3) To an NF or ICF/IID that is dissatisfied with a determination as to the effective date of its provider agreement.

(b) *Special rules.* This subpart also sets forth the special rules that apply in particular circumstances, the limitations on the grounds for appeal, and the scope of review during a hearing.

[61 FR 32348, June 24, 1996, as amended at 62 FR 43935, Aug. 18, 1997]

§ 431.152 State plan requirements.

The State plan must provide for appeals procedures that, as a minimum, satisfy the requirements of §§ 431.153 and 431.154.

[59 FR 56232, Nov. 10, 1994, as amended at 61 FR 32348, June 24, 1996]

§ 431.153 Evidentiary hearing.

(a) *Right to hearing.* Except as provided in paragraph (b) of this section, and subject to the provisions of paragraphs (c) through (j) of this section, the State must give the facility a full evidentiary hearing for any of the actions specified in § 431.151.

(b) *Limit on grounds for appeal.* The following are not subject to appeal:

(1) The choice of sanction or remedy.

(2) The State monitoring remedy.

(3) [Reserved]

(4) The level of noncompliance found by a State except when a favorable final administrative review decision would affect the range of civil money penalty amounts the State could collect.

(5) A State survey agency's decision as to when to conduct an initial survey of a prospective provider.

(c) *Notice of deficiencies and impending remedies.* The State must give the facility a written notice that includes:

(1) The basis for the decision; and

(2) A statement of the deficiencies on which the decision was based.